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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,685	03/19/2004	Brian J. Conaway	3984500-146939	8539

7590 03/09/2007

ATTN: Intellectual Property Department
Porter, Wright, Morris & Arthur LLP
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Columbus, OH 43215-6194

EXAMINER	
AVERY, BRIDGET D	
ART UNIT	**PAPER NUMBER**
3618	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/805,685	CONAWAY ET AL.	
	Examiner	Art Unit	
	Bridget Avery	3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 December 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *23-25,27-34 and 36-50* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) *23-25, 27-34 and 36-50* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. The amendment filed by applicant on December 7, 2006 is acknowledged and has been entered.

2. An action on the merits of claims 23-25, 27-34 and 36-50 follows.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 23, 25, 27, 28, 30-32, 36, 38-42, 46 and 47 are rejected under 35 U.S.C. 102(b) as being anticipated by Edhardt (US Patent 2,660,446).

Edhardt teaches a wheelbarrow including, in combination: a rigid front bracket/frame/hood (3); a wheel (1) rotatably secured to the front bracket and rotatable about a horizontally, laterally extending axis of rotation; first and second handle arms (11) pivotally attached (as shown in Figure 1) to the front bracket; a rigid tray (clearly shown in phantom in Figures 2 and 3); a clamping device (8 and see column 1, lines 30-34) extending between the first and second handle arms (11) and removably applying a laterally-extending adjustable clamping force between the first and second handle arms to move the fist and second handle arms (11) relative to one another in a lateral direction and clamp the tray between the first and second handle arms (11). The interconnection of the tray (shown in phantom) with the first and second handle arms

(11) permit relative movement therebetween in a lateral direction and prevents movement therebetween in each direction other than the lateral direction. Re claim 30, the front bracket includes front section (6), first and second laterally spaced apart leg sections (4). Re claim 36, note the laterally spaced apart pivot axes formed by frame/hood (3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 24, 43-45 and 48-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edhardt ('446) in view of Leger et al. (US Patent 5,908,202).

Edhardt teaches the features described above.

Edhardt lacks the teaching of a flexible cable.

Leger et al. teaches a clamping device including a flexible cable.

Based on the teachings of Leger et al., it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to replace the bolt with a flexible cable to facilitate folding of the wheelbarrow when the tray is removed. Re claim 45, a wing nut provides a rotatable handle.

5. Claims 29 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edhardt ('446) in view of Donze et al. (US Patent 5,026,079).

Edhardt teaches the features described above.

Edhardt lacks the teaching of a telescoping handle arms.

Donze et al. teaches telescoping handle arms (16).

Based on the teachings of Donze et al., it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to replace the handle arms taught by Edhardt with telescoping arms to allow for easier storage during transportation of the wheelbarrow and to permit the height or position of the handle arms to be adjusted depending on the stature of the user so as to avoid an uncomfortable working position.

6. Claims 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edhardt ('446) in view of Aielli (US Patent 6,186,523).

Edhardt teaches the features described above.

Edhardt lacks the teaching of tabs extending laterally outward and handle arms having slots and grooves.

Aielli teaches a tray having tabs/spring pin brackets (43) that couple to a rear lower surface.

Based on the teachings of Aielli, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to add tabs to the tray of Edhart to prevent unintended disconnection of the tray from the wheelbarrow. It would

have been an obvious matter of design choice to add slots and grooves to the handle arms, since applicant has not disclosed that the slots solve any stated problem or is for any particular purpose and it appears the invention would perform equally well with the tabs/spring pin brackets that couple to a rear lower surface.

Response to Arguments

7. Applicant's arguments filed December 7, 2006 have been fully considered but they are not persuasive. Contrary to applicant's arguments, the clamping device (8) clearly extends between the first and second handle arms to limit rotation of the shafts (7) that are integral with the handle arms (11)—Applicant's attention is directed to column 1, lines 26-53. It is also noted that applicant's claim does not recite "a clamping device **connected** to the handle members.

Contrary to applicant's argument that the tray/basket is not "removably secured", applicant's attention is directed to column 1, lines 50-54. Edhardt clearly states that the "arcuate portions 12" are used to "securely hold the basket during transportation".

With respect to applicant's argument regarding claim 25, a bolt includes a rigid rod.

With respect to applicant's argument regarding the claimed bracket, the hood element (3) in Edhardt clearly meets the broad reasonable interpretation of the term "bracket".

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication should be directed to Bridget Avery at telephone number 571-272-6691.

Avery

March 5, 2007

CHRISTOPHER P. ELLIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600